Government of Kerala
1978

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIII] Trivandrum, Thursday, 20th April 1978 / 30th Chaithra 1900 [No. 260

GOVERNMENT OF KERALA

Law (Leg. C) Department

NOTIFICATION

No. 4420/Leg. (C) 2/78/Law. *Dated, Trivandrum, 20th April, 1978/ 30th Chaithra, 1900.*

The following Ordinance promulgated by the Governor on the 19th day of April, 1978 is hereby published for general information.

By order of the Governor,

K. VISWANATHAN NAIR,

Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1978.

33/1343/MC.

ORDINANCE No. 11 OF 1978

THE LOCAL AUTHORITIES LAWS (AMENDMENT) ORDINANCE, 1978

Promulgated by the Governor of Kerala in the Twenty-ninth Year of the Republic of India

AN

ORDINANCE

further to amend the Kerala Panchayats Act, 1960, the Kerala Municipalities Act, 1960 and the Kerala Municipal Corporations Act, 1961

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Local Authorities Laws (Amendment) Ordinance, 1978.

(2) It shall come into force at once.

2. *Acts* 32 *of* 1960, 14 *of* 1961 *and* 30 *of* 1961 *to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Panchayats Act, 1960 (32 of 1960), the Kerala Municipalities Act, 1960 (14 of 1961), and the Kerala Municipal Corporations Act, 1961 (30 of 1961), shall have effect subject to the amendments specified in sections 3, 4 and 5 respectively.

3. *Amendment of Act* 32 *of* 1960.—In the Kerala Panchayats Act, 1960 (32 of 1960),—

(a) for sections 14 and 15, the following sections shall be substituted, namely:—

"14. *Electoral rolls for every panchayat area.*—For every panchayat area there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act and such directions not inconsistent with the provisions of this Act as the Government may, from time to time, issue in that behalf.

14A. *Disqualifications for registration in electoral roll.*—(1) A person shall be disqualified for registration in an electoral roll if he—

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral rolls in which it is included:

Provided that the name of any person struck off the electoral roll for a panchayat area by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be re-instated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal.

14B. *No person to be registered in the electoral roll relating to more than one local authority.*—A person registered in the electoral roll for a panchayat area shall not be entitled to be registered in the electoral roll for another panchayat area or in the electoral roll for a municipality or city.

Explanation.—For the purposes of this section, the expressions "municipality" and "city" shall have the meanings respectively assigned to them in the Kerala Municipalities Act, 1960 (14 of 1961) and the Kerala Municipal Corporations Act, 1961 (30 of 1961).

14C. *No person to be registered more than once in any panchayat area.*—No person shall be entitled to be registered in the electoral roll for any panchayat area more than once.

14D. *Conditions of registration.*—Subject to the provisions of sections 14, 14A, 14B, and 14C, every person who—

(a) is not less than eighteen years of age on the qualifying date; and

(b) is ordinarily resident in a panchayat area,

shall be entitled to be registered in the electoral roll for that panchayat area.

Explanation.—For the purposes of this section and section 15, "qualifying date", in relation to the preparation or revision of an electoral roll, means the first day of January of the year in which it is so prepared or revised.

14E. *Meaning of "ordinarily resident".*—(1) A person shall not be deemed to be ordinarily resident in a panchayat area on the ground only that he owns, or is in possession of, a dwelling house therein.

(2) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(3) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof be deemed to be ordinarily resident therein.

(4) If in any case a question arises as to whether a person is ordinarily resident in a panchayat area at any relevant time, the question shall be determined with reference to all facts of the case and to such rules as may be made in this behalf, by the Government.

15. *Preparation and revision of electoral roll.*—(1) The electoral roll for each panchayat area shall be prepared in the prescribed manner by any

person authorised by the election authority in this behalf by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2) The electoral roll for a panchayat area shall be divided into separate parts for each ward of the panchayat.

(3) The electoral roll for a panchayat area shall, unless otherwise directed by the Government for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(i) before each ordinary election to the panchayat;

(ii) before each bye-election to fill a casual vacancy in the panchayat.

(4) Every person whose name appears in the electoral roll for a panchayat area shall, so long as such roll remains in force, be entitled, subject to the provisions of this Act, to vote at an election for the ward concerned, and no person whose name does not appear in such roll shall vote at an election:

Provided that no person shall vote at an election of members to a panchayat if he—

(a) has been adjudged to be of unsound mind, or

(b) has voluntarily acquired the citizenship of a foreign State, or

(c) has been sentenced by a criminal court for an electoral offence punishable under section 103 or clause (a) of sub-section (2) of section 104 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification, provided that the disqualification under this clause may at any time be removed by the Government if they think fit.";

(b) after section 15C, the following sections shall be inserted, namely:—

"15D. *Jurisdiction of civil courts barred.*—No civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a panchayat area; or

(b) to question the legality of any action taken by or under the authority of the election authority under section 15 or section 15A or section 15B.

15E. *Making false declaration.*—If any person makes in connection with—

(a) the preparation, revision or correction of an electoral roll, or

(b) the inclusion or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.".

4. *Amendment of Act* 14 *of* 1961.—In the Kerala Municipalities Act, 1960 (14 of 1961),—

(a) for sections 57 and 58, the following sections shall be substituted, namely:—

"57. *Electoral roll for every municipality.*—(1) For every municipality there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act and such directions not inconsistent with the provisions of this Act as the Government may, from time to time, issue in that behalf.

57A. *Disqualifications for registration in electoral roll.*—(1) A person shall be disqualified for registration in an electoral roll if he—

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

Provided that the name of any person struck off the electoral roll for a municipality by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal.

57B. *No person to be registered in the electoral roll relating to more than one local authority.*—A person registered in the electoral roll for a municipality shall not be entitled to be registered in the electoral roll for another municipality or in the electoral roll for a city or panchayat area.

Explanation.—For the purposes of this section, the expressions "city" and "panchayat area" shall have the meanings respectively assigned to them in the Kerala Municipal Corporations Act, 1961 (30 of 1961) and the Kerala Panchayats Act, 1960 (32 of 1960).

57C. *No person to be registered more than once in any municipality.*—No person shall be entitled to be registered in the electoral roll for any municipality more than once.

57D. *Conditions of registration.*—Subject to the provisions of sections 57, 57A, 57B and 57C, every person who—

(a) is not less than eighteen years of age on the qualifying date; and

(b) is ordinarily resident in a municipality;

shall be entitled to be registered in the electoral roll for that municipality.

Explanation.—For the purposes of this section and section 58, "qualifying date", in relation to the preparation or revision of an electoral roll, means the first day of January of the year in which it is so prepared or revised.

57E. *Meaning of "ordinarily resident".*—(1) A person shall not be deemed to be ordinarily resident in a municipality on the ground only that he owns, or is in possession of, a dwelling house therein.

(2) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(3) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or who is detained in prison or other legal custody at any place shall not by reason thereof be deemed to be ordinarily resident therein.

(4) If in any case a question arises as to whether a person is ordinarily resident in a municipality at any relevant time, the question shall be determined with reference to all facts of the case and to such rules as may be made in this behalf, by the Government.

58. *Preparation and revision of electoral roll.*—(1) The electoral roll for each municipality shall be prepared by the election authority in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2) The electoral roll for a municipality shall be divided into separate parts for each ward of the municipality.

(3) The electoral roll for a municipality shall, unless otherwise directed by the Government for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(i) before each ordinary election to the municipal council;

(ii) before each bye-election to fill a casual vacancy in the municipal council.

(4) Every person whose name appears in the electoral roll for a municipality shall, so long as such roll remains in force, be entitled, subject to the provisions of this Act, to vote at an election for the ward concerned, and no person whose name does not appear in such roll shall vote at such an election:

Provided that no person shall vote at an election of councillors if he—

(a) has been adjudged to be of unsound mind, or

(b) has voluntarily acquired the citizenship of a foreign State, or

(c) has been sentenced by a criminal court for an electoral offence punishable under section 71 or clause (a) of sub-section (2) of section 72 or has been disqualified from exercising any electoral right on account

of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification, provided that the disqualification under this clause may at any time be removed by the Government if they think fit.";

(b) after section 58C, the following sections shall be inserted, namely:—

"58D. *Jurisdiction of civil courts barred.*—No civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in the electoral roll for a municipality; or

(b) to question the legality of any action taken by or under the authority of the election authority under section 58 or section 58A or section 58B.

58E. *Making false declaration.*—If any person makes in connection with—

(a) the preparation, revision or correction of an electoral roll, or

(b) the inclusion or exclusion of any entry in or from an electoral roll, a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.".

5. *Amendment of Act* 30 *of* 1961.—In the Kerala Municipal Corporations Act, 1961 (30 of 1961),—

(a) in section 3, after clause (15), the following clause shall be inserted, namely:—

"(15A) "election authority" means such authority, not being the Mayor or the Deputy Mayor or a councillor, as may be appointed by the Government by notification in the Gazette;";

(b) for sections 46, 47 and 48, the following sections shall be substituted, namely:—

"46. *Electoral roll for every city.*—For every city there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act and such directions not inconsistent with the provisions of this Act as the Government may, from time to time, issue in that behalf.

47. *Disqualifications for registration in electoral roll.*—(1) A person shall be disqualified for registration in an electoral roll if he—

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included:

Provided that the name of any person struck off the electoral roll for a city by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be re-instated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal.

47A. *No person to be registered in the electoral roll relating to more than one local authority.*—A person registered in the electoral roll for a city shall not be entitled to be registered in the electoral roll for another city or in the electoral roll for a municipality or panchayat area.

Explanation.—For the purposes of this section, the expressions "municipality" and "panchayat area" shall have the meanings respectively assigned to them in the Kerala Municipalities Act, 1960 (14 of 1961) and the Kerala Panchayats Act, 1960 (32 of 1960).

47B. *No person to be registered more than once in any city.*—No person shall be entitled to be registered in the electoral roll for any city more than once.

47C. *Conditions of registration.*—Subject to the provisions of sections 46, 47, 47A and 47B, every person who—

(a) is not less than eighteen years of age on the qualifying date; and

(b) is ordinarily resident in a city,

shall be entitled to be registered in the electoral roll for that city.

Explanation.—For the purposes of this section and section 48, "qualifying date", in relation to the preparation or revision of an electoral roll, means the first day of January of the year in which it is so prepared or revised.

47D. *Meaning of "ordinarily resident".*—(1) A person shall not be deemed to be ordinarily resident in a city on the ground only that he owns, or is in possession of, a dwelling house therein.

(2) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(3) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or who is detained in prison or other legal custody at any place shall not by reason thereof be deemed to be ordinarily resident therein.

(4) If in any case a question arises as to whether a person is ordinarily resident in a city at any relevant time, the question shall be determined with reference to all facts of the case and to such rules as may be made in this behalf, by the Government.

48. *Preparation and revision of electoral roll.*—(1) The electoral roll for each city shall be prepared by the election authority in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2) The electoral roll for a city shall be divided into separate parts for each division.

(3) The electoral roll for a city shall, unless otherwise directed by the Government for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(i) before each ordinary election to the corporation;

(ii) before each bye-election to fill a casual vacancy in the corporation.

(4) Every person whose name appears in the electoral roll for a city shall, so long as such roll remains in force, be entitled, subject to the provisions of this Act, to vote at an election for the division concerned, and no person whose name does not appear in such roll shall vote at such an election:

Provided that no person shall vote at an election of councillors if he—

(a) has been adjudged to be of unsound mind, or

(b) has voluntarily acquired the citizenship of a foreign State, or

(c) has been sentenced by a criminal court for an electoral offence punishable under section 61 or clause (a) of sub-section (2) of section 62 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification, provided that the disqualification under this clause may at any time be removed by the Government if they think fit.";

(c) after section 48C, the following sections shall be inserted, namely:—

"48D. *Jurisdiction of civil courts barred.*—No civil court shall have urisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in the electoral roll for a city; or

(b) to question the legality of any action taken by or under the authority of the election authority under section 48 or section 48A or section 48B.

48E. *Making false declaration.*—If any person makes in connection with—

(a) the preparation, revision or correction of an electoral roll, or

(b) the inclusion or exclusion of any entry in or from an electoral roll, a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.".

JOTHI VENKATACHELLUM,

GOVERNOR.